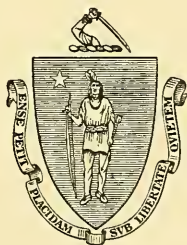


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The Commonwealth of Massachusetts

ANNUAL REPORT
OF THE
ALCOHOLIC BEVERAGES
CONTROL COMMISSION

FOR THE
YEAR ENDING NOVEMBER 30, 1937



(24 SCHOOL STREET, BOSTON)

ALCOHOLIC BEVERAGES CONTROL COMMISSION

ANNUAL REPORT

To His Excellency, The Governor, and to The General Court of The Commonwealth of Massachusetts:

SIRS: In accordance with the provisions of Section 44 of Chapter 6 of the General Laws, as amended, we have the honor to submit the Fifth Annual Report of the action of the Alcoholic Beverages Control Commission, and of the conduct and condition of traffic in alcoholic beverages during the fiscal year ending November 30, 1937.

The term of Commissioner John P. Buckley having expired on April 7, 1937, he was reappointed by His Excellency, Governor Charles F. Hurley, with the advice and consent of the Governor's Council.

In our previous Reports we explained in detail the original provisions of our Liquor Control Act and the various Amendments which had been adopted thereto.

The following is a brief summary of the more important Amendments to the Act which were adopted during the Legislative Session of 1937:

1. Under the provisions of the Liquor Control Act the holder of a Restaurant license to sell alcoholic beverages has always been prima facie entitled to a renewal of his alcoholic beverages license if his application therefor was filed as required by the Act. Local Licensing Authorities in some instances sought to circumvent this provision by failing to renew a Restaurant licensee's Common Victualler's license which is a prerequisite to the holding of a Restaurant license to sell alcoholic beverages. Inasmuch as the Commission had no authority over the issuance of Common Victuallers' licenses, an appeal to the Commission from the refusal to grant a renewal of a Restaurant license to sell alcoholic beverages was futile. For the purpose of removing this inconsistency, an Amendment to the Liquor Control Act was adopted which provided that the holder of a Restaurant license to sell alcoholic beverages could appeal to the Commission from the refusal of Local Licensing Authorities to grant a renewal of both his Common Victualler's license and his Restaurant license to sell alcoholic beverages. The Commission was empowered to order the granting of a Common Victualler's license in the event that any such appeal was sustained.

2. An Amendment was adopted which required all licensees selling malt beverages on draught to attach to their taps, faucets or other draughting devices the brand or trade name of the malt beverages sold therefrom.

3. An Amendment was adopted which permitted "Package Goods" Stores to sell alcoholic beverages on legal holidays, except May thirtieth, Thanksgiving day or Christmas day, between the hours of one o'clock P. M. and eleven o'clock P. M. Prior to the adoption of this amendment, such stores could not sell alcoholic beverages later than six o'clock P. M. on such days.

4. An Amendment was adopted which provides that, unless the Licensing Authorities otherwise determine, not more than one application for a Hotel, Restaurant, Tavern, Club or "Package Goods" Store license to be exercised on the same premises shall be received for any license year.

5. An Amendment was adopted which established a limitation upon the number of licenses for the sale of wines and malt beverages, or either, which could be issued in any city or town. Prior to this amendment, the number of such licenses was not limited. This Amendment was adopted as the result of the recommendations contained in our Annual Reports for the fiscal years 1935 and 1936.

A statement of the income and disbursement of the Commission follows:

FINANCIAL STATEMENT

Summary of Income Received from Fees for Licenses and Permits issued by the Commission under Chapter 138 of the General Laws, as Amended.

| | | | |
|---|---|--|--------------|
| Manufacturers' Fees (Section 19) | 9 distilleries) | | |
| | 16 breweries) | | \$75,000.00 |
| Wholesalers' and Importers' Fees | 101 all alcoholic beverages) | | |
| (Section 18) | 94 wines and malt beverages) | | 445,001.00 |
| | 2 sacramental wines) | | |
| Alcohol Fees (Section 76) | 35 licenses for sale of alcohol for me-) | | |
| | chanical, chemical or other com-) | | 10,500.00 |
| | mercial purposes only) | | |
| Agents', Brokers' or Solicitors' Fees | | | |
| (Section 18A) | 72 licenses | | 21,600.00 |
| Railroad Fees (Section 13) | 5 licenses, 159 cars | | 659.00 |
| Steamship Fees (Section 13) | 8 licenses, 20 vessels | | 2,000.00 |
| Special Permit Fees (Section 22A) .. | 88 licenses | | 2,888.11 |
| Storage Permit Fees (Section 20) | 16 annual, 4 seasonal, 4 bonded ware-) | | |
| | houses, 1 special storage | | 8,470.00 |
| | 12 warehousemen) | | |
| Transportation Fees (Section 22) | 458 express or trucking companies) | | |
| | 3 railroad corporations | | 5,722.00 |
| | 2 steamship companies) | | |
| Transportation Fees (Section 22) | 4,036 vehicles owned by licensees or their) | | |
| | employees | | 4,036.00 |
| Salesmen's Fees (Section 19A) | 2,242 permits, 9 duplicate permits | | 22,424.50 |
| Miscellaneous Income | | | 96.00 |
| Total Receipts | | | \$598,396.61 |
| Less Refund of \$1,569.86 allowed to Charles J. Draper, Belmont, under authority contained in Chapter 15, Acts and Resolves of 1937, which represents part of Fee of \$3,000 paid for Wholesaler's and Importer's License in 1934 | | | |
| | | | 1,569.86 |
| Net Receipts | | | \$596,826.75 |

Statement of Appropriations and Expenditures

| APPROPRIATIONS | | | |
|---|--|-------------|--------------|
| Expenses | | | \$47,050.88 |
| Personal Services | | | 115,400.00 |
| | | | \$162,450.88 |
| EXPENDITURES | | | |
| For office supplies and equipment..... | | \$16,246.48 | |
| For traveling and other expenses..... | | 27,730.56 | |
| For personal services..... | | 113,083.35 | 157,060.39 |
| Balance Unexpended: Returned to Treasurer and Receiver-General..... | | | \$ 5,390.49 |

Financial statement verified.

Approved.

GEO. E. MURPHY,
Comptroller.

The Department of Corporations and Taxation, Division of Excise Taxes, collected the sum of \$4,741,040.57 for taxes on alcoholic beverages sold in Massachusetts during the fiscal year ending November 30, 1937.

Local Licensing Authorities are required by the provisions of Section 10A of the Liquor Control Act to file with the Commission during the month of December of each year a report of their actions during the preceding twelve months. Reports filed to date show that the various cities and towns which have voted to permit the issuance of licenses for the sale of alcoholic beverages have received a total of \$4,268,836.35 in license fees. Only sixteen towns have failed to submit reports as required by the Act.

APPEALS AND REMONSTRANCES

Section 67 of Chapter 138 of the General Laws, as amended, reads as follows:

"Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same or by the failure to act within the period of thirty days limited by section sixteen B, or any person who is aggrieved by the action of such authorities in suspending, cancelling, revoking or declaring forfeited the same, may appeal therefrom to the commission within five days following notice of such action or following the expiration of said period, and the decision of the commission shall be final; but, pending a decision on the appeal, the action of the local licensing authorities shall have the

same force and effect as if the appeal had not been taken. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a license has been granted by such authorities or who are registered voters in the voting precinct or district wherein the licensed premises are situated, or upon its own initiative, the commission may investigate the granting of such a license or the conduct of the business being done thereunder and may, after a hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

"If the local licensing authorities fail to issue a license or to perform any other act when lawfully ordered so to do by the commission upon appeal or otherwise, within such time as it may prescribe, the commission may itself issue such license or perform such act, with the same force and effect as if issued or performed by the local licensing authorities."

During the fiscal year ending November 30, 1937, there were 394 appeals filed with the Commission by applicants for licenses who were aggrieved by the action of Local Licensing Authorities in refusing to grant the same or by their failure to act within the said period of thirty days. Of these appeals 292 were dismissed and denied by the Commission, and 50 were withdrawn either before or after hearing thereon. Fifty-two appeals were sustained by the Commission and the Local Licensing Authorities were ordered to grant licenses to the appellants involved. While the Commission ordered Local Licensing Authorities to grant 52 licenses, in only 7 instances did they fail to comply with the Commission's orders.

During the 1937 fiscal year the Commission sustained slightly less than one-sixth of the appeals upon which it acted. During the 1936 fiscal year slightly less than one-fourth of the appeals acted upon by the Commission were sustained. It will be noted that there was a substantial decrease on a percentage basis, as well as in actual numbers, in the number of appeals sustained by the Commission.

Thirty-six licensees filed appeals with the Commission because of the fact that they felt aggrieved by the action of Local Licensing Authorities in suspending or revoking their licenses to sell alcoholic beverages. The appeals of 21 appellants were dismissed and denied by the Commission; 11 were withdrawn before or after hearing; 4 were sustained only insofar as they related to the penalties imposed, but the Commission found in each of these cases the Local Licensing Authorities were justified in meting out penalties of some nature.

No remonstrance against the continuance of any license was received during the fiscal year.

LAW ENFORCEMENT

Investigators of the Commission were required to investigate and submit written reports upon all applications for licenses which came before the Commission for approval.

Investigators also investigated 1,710 complaints alleging violations of the provisions of the Liquor Control Act in licensed premises. In 611 instances evidence was obtained to support the complaints. In 141 cases complaints against licensees or their employees were sought and secured in the District Court. Evidence obtained in 1,099 cases was referred to Local Licensing Authorities for their determination. In all of these cases Investigators testified at hearings before the said Authorities.

We present below a brief summary of the number and nature of the complaints investigated and prosecuted, together with a statement of the disposition made in each case.

1937

| OFFENSES | Complaints Issued | Finding Guilty | Finding Not Guilty | Complaints Dismissed | Placed on File | Tail Sentences | Fines Imposed | Probation |
|--|----------------------|-------------------|-----------------------|-------------------------|-------------------|-------------------|------------------|-----------|
| Club—Sales to Non-Members | 3 | 3 | — | — | 1 | — | 1 | 1 |
| Hindering Investigators | 9 | 8 | — | 1 | 3 | — | 5 | — |
| Illegal Sales | 16 | 16 | — | — | — | 4 | 11 | 4 |
| Illegal Storage | 1 | 1 | — | — | 1 | — | — | — |
| Illegal Transportation | 1 | 1 | — | — | — | — | 1 | — |
| Gambling on Premises | 10 | 9 | — | 1 | 3 | — | 6 | — |
| Keeping and Exposing Alcoholic Beverages | 16 | 15 | 1 | — | — | 6 | 8 | 4 |
| Permitting Illegality on Licensed Premises | 2 | 2 | — | — | 2 | — | — | — |
| Sales Alcoholic Beverages without License | 1 | 1 | — | — | — | — | 1 | — |
| Sales by Aliens | 11 | 10 | 1 | — | 3 | — | 9 | — |
| Sales by Minors | 1 | 1 | — | — | 1 | — | — | — |
| Sales to Minors | 23 | 21 | 2 | — | 8 | — | 13 | — |
| Sales—Clubs, Restaurants—Consumption off Premises | 5 | 5 | — | — | 1 | — | 4 | — |
| Sales Intoxicated Patrons | 1 | 1 | — | — | 1 | — | — | — |
| Sales Liquor on Wines and Malt License | 12 | 11 | 1 | — | 2 | 1 | 6 | 2 |
| Sales Outside Legal Hours | 15 | 16 | — | 2 | 4 | — | 12 | — |
| Sales—Package Stores—Consumption on Premises | 1 | 1 | — | — | — | — | 1 | — |
| Sales not Recorded by Druggists | 1 | 1 | — | — | — | — | 1 | — |
| Sunday Sales without Prescription | 12 | 11 | 1 | — | 1 | — | 10 | 1 |
| Soliciting without Agent's License | 1 | 1 | — | — | — | 1 | 1 | 1 |
| | 145 | 135 | 6 | 4 | 31 | 12 | 90 | 13 |

COMPLAINTS REFERRED TO LOCAL LICENSING AUTHORITIES
1937

| OFFENSES | Total | Condition Corrected | Licenses Revoked | Licenses Suspended | Licenses Surrendered | Cancelled | Filed—Warn- ing Given | Hrs. of Sale Modified | Licenses Modified | Charges Not Sustained | Penalty— Imposed— Suspended |
|--|-------|------------------------|---------------------|-----------------------|-------------------------|-----------|--------------------------|--------------------------|----------------------|--------------------------|-----------------------------------|
| Adulteration of Beverages | 2 | — | 1 | 1 | — | — | — | — | — | — | — |
| Alien Licensees | 4 | 1 | 1 | — | — | 1 | 1 | — | — | — | — |
| Club—Sales to Non-Members | 34 | 1 | — | 13 | — | 1 | 17 | — | — | 2 | — |
| Conditions on Premises Unsatisfac- tory | 146 | 8 | 2 | 51 | — | — | 70 | — | 1 | 6 | 8 |
| Exterior signs Illuminated Sunday | 5 | 2 | — | — | — | — | 3 | — | — | — | — |
| Gambling on Premises | 49 | 5 | 1 | 16 | — | 1 | 25 | — | — | 1 | — |
| Hindering Investigators | 20 | 2 | — | 11 | — | — | 5 | — | — | — | 2 |
| Illegal Sales | 47 | 7 | 1 | 9 | — | 2 | 26 | — | — | — | 2 |
| Illegal Sales by Druggists | 3 | — | 1 | — | — | — | 2 | — | — | — | — |
| Illegal Transfer of License | 9 | 4 | 3 | 1 | — | — | 1 | — | — | — | — |
| Illegal Transportation | 14 | 11 | — | — | — | — | 3 | — | — | — | — |
| Improper Advertising | 46 | 23 | — | 3 | — | — | 18 | — | — | 1 | 1 |
| Improper Labels | 1 | 1 | — | — | — | — | — | — | — | — | — |
| Importing without License | 3 | 1 | — | — | — | — | 2 | — | — | — | — |
| Lack of Restaurant Equipment | 38 | 6 | 1 | 12 | — | 3 | 13 | — | — | — | 3 |
| Mfr. acquiring interest in retail business | 1 | 1 | — | — | — | — | — | — | — | — | — |
| Minors Employed on Premises | 17 | 1 | — | — | — | — | 15 | — | — | 1 | — |
| Peddling | 3 | — | — | — | — | — | 3 | — | — | — | — |
| Possession of Lord's Day License | 3 | 2 | — | — | — | — | 1 | — | — | — | — |
| Sales below Posted Price List | 3 | 1 | — | 1 | — | — | 1 | — | — | — | — |
| Sales Not Recorded by Druggists | 4 | — | — | 2 | — | — | 1 | — | — | 1 | — |
| Sales by Aliens | 27 | 7 | — | 6 | 3 | 1 | 9 | — | — | — | — |
| Sales by Minors | 4 | — | — | 1 | — | — | 2 | — | — | — | 1 |
| Sales to Minors | 87 | 1 | — | 37 | — | 1 | 41 | — | — | — | 7 |
| Sales—Clubs, Restaurants— Consumption off Premises | 18 | 2 | 1 | 3 | — | — | 11 | — | — | 1 | — |
| Sales Intoxicated Patrons | 55 | 1 | 1 | 24 | 1 | — | 23 | 2 | — | 1 | 2 |
| Sales All Alcoholic Beverages on a Wines and Malt License | 17 | — | 2 | 4 | 1 | — | 7 | — | — | 2 | 1 |
| Sales to Non-Licensees | 4 | — | — | — | — | — | 4 | — | — | — | — |
| Sales Outside Legal Hours | 197 | 5 | 1 | 73 | — | — | 94 | — | — | 5 | 19 |
| Sales—Package Stores—To be Drunk on Premises | 4 | — | — | 4 | — | — | — | — | — | — | — |
| Sales without Charge | 2 | 1 | — | 1 | — | — | — | — | — | — | — |
| Salesmen—Soliciting without Proper Permit | 9 | 8 | — | — | — | — | 1 | — | — | — | — |
| Sanitation | 211 | 12 | 1 | 8 | — | — | 176 | — | — | — | 14 |
| Selling without License | 3 | 1 | — | — | — | — | 2 | — | — | — | — |
| Solicitors, Agents, Broker—Acting without license | 6 | 4 | — | — | — | — | 2 | — | — | — | — |
| Substitution of A. B. of different brand than that ordered by customer | 3 | 1 | — | 1 | — | — | 1 | — | — | — | — |
| | 1099 | 120 | 17 | 282 | 5 | 10 | 580 | 2 | 1 | 22 | 60 |

HOTELS

Hotel licensees who permitted violations of the provisions of the Liquor Control Act to occur in their licensed premises during the past year were more severely dealt with by the Licensing Authorities than in former years. The imposition of stiffer penalties has tended to greatly correct conditions surrounding the sale of alcoholic beverages in such establishments. As we have pointed out in previous Annual Reports, Local Licensing Authorities were more lenient in dealing with Hotels than with other classes of licensees. This was undoubtedly due to the fact that in practically all instances large sums of money were invested in such enterprises. However, the fact that the past year marked the fourth full year since Repeal undoubtedly caused Licensing Authorities to feel that sufficient experience in the handling of alcoholic beverages had been gained to enable well-intentioned Hotel operators to conduct their establishments in accordance with the provisions of the Liquor Control Act and that there was, therefore, no reasonable excuse for not doing so.

It is our opinion that licensees for other types of establishments have just cause for grievance if they are dealt with more severely than Hotel licensees who violate the law. We recommend that in the future even more severe penalties be imposed on the comparatively small number of Hotel owners who are apparently determined to wilfully violate the provisions of the Liquor Control Act to the detriment of the large majority of Hotel owners and other licensees who are conscientiously endeavoring to conduct their businesses in strict accordance with the provisions of all the laws of the Commonwealth.

The fact that the number of violations of the Liquor Control Act occurring in Hotels has been greatly reduced is due in no small part, in our opinion, to the drastic action taken by the Local Licensing Authorities when violations have been found and we recommend that this policy be continued.

RESTAURANTS

The conditions surrounding the sale and service of alcoholic beverages in Restaurants have not improved to the extent for which we had hoped. Sales outside legal hours and sales to minors have occurred with too great frequency. The percentage of Restaurant licensees who violate the law is greater than that obtaining with respect to any other group of licensees. In the beginning we felt that this situation was due to the fact that practically none of those persons who operated Restaurants which were suitable to be licensed to sell alcoholic beverages when Repeal became effective were qualified by experience to sell such beverages. We are now thoroughly convinced, however, that a large number of such licensees are wilfully violating the Liquor Control Act and do not intend to observe its provisions unless forced to do so. For this reason, we recommend to Local Licensing Authorities that the past records of all Restaurant licensees who are brought before them on charges of violating any provision of the Liquor Control Act be carefully scrutinized. The licenses of those licensees who are found to have been regular violators of the Act should be revoked whenever they are found to have violated the law. In this manner we will be able to eliminate from the business those licensees who are responsible for many of the just criticisms which are levelled against the conduct of the alcoholic beverages industry as a whole.

Restaurant licensees who are continual violators of the Liquor Control Act do not deserve the further consideration of the Licensing Authorities. A license to sell alcoholic beverages is a personal privilege which should not be extended to any person who has not shown himself to be capable or desirous of observing the laws governing the sale of such beverages.

TAVERNS

In our previous Annual Reports, we have taken occasion to commend the methods and conditions under which alcoholic beverages were dispensed in Taverns. Women are not permitted to enter Taverns as patrons and alcoholic beverages can be sold in such establishments between the hours of eight o'clock A. M. and eleven o'clock P. M. on secular days.

Tavern licenses, however, cannot legally be granted in any city or town unless a favorable vote on the question of issuing such licenses is given at a regular or special city or town election where the question is specifically voted upon. The question appears on the ballot only at the request of one per cent of the whole number of registered voters in any city or town. If this provision is retained in the Liquor Control Act a comparatively small number of voters may cause taxpayers to be put to the expense of holding a special municipal election for the sole consideration of a relatively unimportant question. This potential threat to the taxpayers could, in our opinion, safely be eliminated by amending the Liquor Control Act so as to provide that cities and towns which vote to permit the issuance of licenses for the sale of alcoholic beverages will include in that permission the right to sell such beverages in Taverns. We are of the further opinion that such an amendment will cause Licensing Authorities to issue a large number of Tavern licenses to establishments now licensed as Restaurants.

Such action would, in our opinion, go a long distance towards eliminating any restaurants which should not be licensed.

CLUBS

We continue to be dissatisfied with conditions surrounding the sale of alcoholic beverages in a large number of licensed Clubs. That portion of the Liquor Control Act which authorizes the issuance of licenses for the sale of alcoholic beverages to Clubs should be revamped. The theory which underlies the authorization for the granting of Club licenses is sound. Unfortunately, however, it permits of the issuance of licenses to Clubs which are properly designated as "one man" organizations. We renew our recommendation that legislation be enacted which will provide that the charter of any Club which the Licensing Authorities find has violated any provision of the Liquor Control Act be revoked.

"PACKAGE GOODS" STORES

"Package Goods" Store licensees have continued to merit the commendation of the Licensing Authorities. Generally speaking they are the least troublesome of any group of licensees. Unfortunately for them they are in competition with druggists licensed to sell alcoholic beverages. There are, in our opinion, more abuses in connection with the sale of alcoholic beverages existing in drug stores than in any other types of licensed establishments. The records of the Commission show that we have carried on a vigorous crusade against the illegal sale of alcoholic beverages in drug stores. This we shall continue to do. We recommend to the Legislature, however, that all provisions of the Liquor Control Act pertaining to the sale of alcoholic beverages in drug stores be carefully examined with a view to correcting all abuses which now admittedly exists.

GENERAL REMARKS

In our Annual Reports for the fiscal years 1935 and 1936 we recommended that the provision of the Liquor Control Act which exempted Retail licenses for the sale of wines and malt beverages, or either, from quota limitation be repealed, or at least modified. We are very pleased to report that the Legislature, during its 1937 session, saw fit to accept our recommendation. A quota limitation on the number of licenses for the retail sale of wines and malt beverages, or either, has been established for each City and Town in which licenses are issued. It is our opinion that this legislation will be of tremendous benefit to the Licensing Authorities in administering the provisions of the Liquor Control Act. We estimate that the passage of this legislation has prevented the issuance of at least 250 or 300 licenses which would have represented a substantial increase over the already too large number in existence.

Local Licensing Authorities of the various Cities and Towns wherein the sale of alcoholic beverages is authorized have been extremely co-operative and helpful in the administration of the provisions of the Liquor Control Act. We

desire to acknowledge this co-operation and help and to express our appreciation therefor.

Violations of the Law which were observed by our Investigators and reported by us to such Authorities were promptly and properly dealt with by the said Authorities in practically every instance. The fact that conditions surrounding the sale of alcoholic beverages have greatly improved is due in no small measure to this co-operation.

The members of the Joint Legislative Committee on Legal Affairs before whom the Commission appeared with reference to contemplated changes in the Liquor Control Act were most courteous. The careful and considerate attention and study which they gave to the suggestions of the Commission are gratefully acknowledged.

Respectfully submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION

WILLIAM P. HAYES, *Chairman*

JOHN P. BUCKLEY,

WILLIAM E. WEEKS,

Commissioners.